



State of Utah

Department of
Environmental Quality

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SEP 16 2004

IPSC/

Air Quality

DAQC-1255-2004
Site ID 10327 - b-1

September 14, 2004

SENT VIA CERTIFIED MAIL NO. 7002 0510 0000 6392 2553
Return Receipt Requested

George W. Cross, Responsible Official
President & Chief Operations Officer
Intermountain Power Service Corporation
850 West Brush Wellman Road
Delta, Utah 84624

Dear Mr. Cross:

Re: Proposed Settlement Agreement in the matter of Intermountain Power Service Corporation
Millard County, Utah

Intermountain Power Service Corporation (IPSC) operates an electric utility generating facility located at 850 West Brush Wellman Road, in Delta, Utah.

On March 30, 2004, an inspector of the Division of Air Quality noted the following:

1. fifty-five observations on the Dust Collector Daily Monitoring Reports for group 1 and 2 baghouses had missing data;
2. the semi-annual monitoring report for July 1 – December 31, 2003, did not include data on an excursion (observed opacity) from the coal transfer #2 dust collector 5; and
3. deviation reports for the deficiencies listed above were not submitted within 14 days.

The inspector informed IPSC representatives that conditions II.B.8.b.1(III)(4) and II.B.9.a.1(III)(4) of the Title V permit require the observation of each applicable emission point (group 1 and group 2 baghouses) to be documented by the observer; condition II.B.8.b.3 requires summary information on the number,

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duration and cause of excursions and the corrective actions taken to be included in the semi-annual monitoring report; and condition I.S.2.c requires notification of any deviation from permit requirements within 14 days.

On May 13, 2004, the Division issued a Compliance Advisory to IPSC. On May 19, 2004, IPSC responded to the compliance advisory. Based on IPSC's response to the Compliance Advisory, the Division determined that IPSC was in violation of conditions II.B.8.b.1(III)(4), II.B.9.a.1(III)(4), II.B.8.b.3, and I.S.2.c of the Title V permit dated August 8, 2003.

Section 19-2-115 of the Utah Code Annotated provides that violators of the Utah Air Conservation Act and/or any order issued thereunder may be subject to a civil penalty of up to \$10,000 per day for each violation. Based upon our civil penalty policy, we calculated a preliminary civil penalty for the above listed violations of \$35,890.00. The monetary amount of the Division's settlement offer specified below is derived from a pre-established schedule of penalties, which takes into account, among other factors, the magnitude and severity of the violation, cooperation of the source, as well as the prior history of violations at the facility. All parties we deal with, whether private, commercial, or governmental, are treated similarly in the settlement process. Settlement offers are based on the evaluation of the same factors and criteria in all cases. The Division acknowledges that the violations on March 30, 2004, were corrected by providing training sessions with the personnel involved.

If you are interested in settling this violation, we are authorized to offer settlement in accordance with the Division's settlement policy as follows:

1. Payment of a reduced civil penalty in the sum of \$28,712.00. Payment of a civil penalty precludes further civil prosecution for the above-described violation against the named source. The Division retains its authority to take enforcement actions based on any and all violations not specifically described above.
2. In the event any further violations of air quality regulations occur, the Division may consider the violation described above in assessing a penalty for the subsequent violations, in accordance with the provisions of UAC R307-130.
3. Entering into this settlement shall not constitute an admission of violation of the air quality rules, nor shall it be inferred to be such an admission in any administrative or judicial proceeding. The described violation will constitute part of the source's compliance history for any purpose for which such history is relevant to the Division of Air Quality.

This letter constitutes an offer of settlement and is not a demand for payment. We will be glad to consider any information you wish to submit related to the alleged violations. The agreement reflects a reduced penalty for early settlement of this matter.

If the above terms are acceptable to you, sign and return a copy of this letter and a check in the sum of \$28,712.00, which reflects the reduced penalties, made payable to the Utah Division of Air Quality, at the letterhead address.

You may write or call to request a settlement conference with a member of the Division's compliance staff listed below. A conference must be scheduled within twenty (20) days of your receipt of this settlement proposal letter. If you request such a meeting this settlement offer is immediately revoked.

Source: Intermountain Power Service Corporation						Class: A									
SID No. : 10327						IIPV: yes						Violation Date: March 30, 2004		Home	
Table 1: Gravity Criteria															
Citation	Description of the violation Description of Events Resulting In Excess Emissions	E	V	S	I	P	G	Gravity Criteria (Gc) No(0), Possibly(1), Probably(2), Definitely(3)						Gravity Criteria	
								Gc 1	Gc 2	Gc 3	Gc 4	Gc 5	Daily Gravity	Accumulated Gravity	
Title V permit dated August 8, 2004, #2700010001	condition II.B.8.b.1(III)(4) and II.B.9.a.1(III)(4) for not documenting all daily observations of group 1 and 2 baghouses (\$5 observations had missing data)	55	C					1	1	0	0	0	\$449.00	\$24,695.00	
	condition II.B.8.b.3 for not including the observed opacity (excursion) from the coal transfer #2 dust collector 5 on December 15, 2003, on the semi-annual monitoring report.	1	C					1	1	0	0	0	\$449.00	\$449.00	
	condition I.S.2.c for not notifying the DAQ of deviations from permit requirements within 14 days (55 missing observations occurred on 13 different days + 1 deviation report for the semi-annual report).	14	C					1	1	1	0	0	\$589.00	\$8,246.00	
Gc 5 History of violations within the last five (5) years? Enter "d" in Category →															
Violations of the same rule within the last five (5) years? Enter "d" in Category →															
												\$2,500.00	\$2,500.00		
Total Gravity												\$3,987.00	\$35,890.00		
Table 2: Adjustments															
Economic Benefit	EPA "BEN" Model (Collected)														
Other															
	Other Monies Collected														
	SEP - (Credited)														
Early Settlement Reduction (20%) -													\$7,178.00		
Total Penalty													\$28,712.00		
Gravity Criteria Definitions															
Gc 1. Was the violation a result of excess emissions and/or reporting?															
(0) Answer "no"	If the violation was not the result emissions, reporting, or other														
(1) Answer "possibly"	If a minor reporting or other problem occurred, but no emissions were involved														
(2) Answer "probably"	If a reporting or other problem occurred which involved emissions														
(3) Answer "definitely"	If a permit reporting or other significant problem occurred involving emissions														
Gc 2. Was it a willful or knowing violation?															
(0) Answer "no"	If the violator obviously did not know that the action or inaction constituted a violation?														
(1) Answer "possibly"	If the violator should have known														
(2) Answer "probably"	If the violator likely knew														
(3) Answer "definitely"	If the violator clearly knew														
Gc 3. Was the violator unresponsive in correcting the violation?															
(0) Answer "no"	If the violation was corrected as soon as the violator learned of it 1dy.														
(1) Answer "possibly"	If the violation was corrected in a less timely and cooperative fashion 2-7 days.														
(2) Answer "probably"	If the violator attempted to correct the problem, but did not correct it 8-30 days														
(3) Answer "definitely"	If the violator did not attempt to correct the problem > 30 days.														
Gc 4. Was the violation a result of improper operation or inadequate maintenance?															
(0) Answer "no"	If the violator was following an acceptable O & M plan														
(1) Answer "possibly"	If the violator was following an O & M plan that was not adequate														
(2) Answer "probably"	If the violator did not have an O & M plan														
(3) Answer "definitely"	If the violator did not have an O & M plan and the violation was clearly a result of improper O & M														
Gc 6. Did the violator benefit economically from noncompliance?															
(0) Answer "no"	If the violator clearly did not obtain any economic benefit (less than \$5,000)														
(1) Answer "possibly"	If the violator may have benefited														
(2) Answer "probably"	If the violator benefited, but the benefit is not quantifiable														
(3) Answer "definitely"	If the economic benefit to the violator is quantifiable (use BEN Program)														

R307-130. General Penalty Policy

R307-130-1. Scope.

This policy provides guidance to the executive secretary of the Air Quality Board in negotiating with air pollution sources penalties for consent agreements to resolve non-compliance situations. It is designed to be used to determine a reasonable and appropriate penalty for the violations based on the nature and extent of the violations, consideration of the economic benefit to the sources of non-compliance, and adjustments for specific circumstances.

R307-130-2. Categories.

Violations are grouped in four general categories based on the potential for harm and the nature and extent of the violations. Penalty ranges for each category are listed.

Category A - \$7,000 to \$10,000 per day

Violations with high potential for impact on public health and the environment including:

- (a) Violations of emission standards and limitations of NESHAP
- (b) Emissions contributing to non-attainment area or PSD increment exceedances.
- (c) Emissions resulting in documented public health effects and/or environmental damage.

Category B \$2,000 to \$7,000 per day

Violations of the Utah Air Conservation Act, applicable state and federal regulations, and orders to include:

- (a) Significant levels of emissions resulting from violations of emission limitations or other regulations which are not Category A
- (b) Substantial non-compliance with monitoring requirements.
- (c) Significant violations of approval orders, compliance orders, and consent agreements not within Category A
- (b) Significant and/or knowing violations of "notice of intent" and other notification requirements.
- (e) Violations of Reporting requirements

Category C Up to \$2,000 per day

Minor violations of the Utah Air Conservation Act, applicable state and federal regulations, and orders having no significant public health or environmental impact to include:

- (a) Reporting violations
- (b) Minor violations of monitoring requirements, orders and agreements.
- (c) Minor violations of emission limitations or other regulatory requirements

Category D Up to \$298.00

Violations of specific provisions of which are considered minor to include:

- (a) Violations of automobile emission standards and requirements.
- (b) Violation of wood-burning regulations by private individuals
- (c) Open burning violations by private individuals.